

DATE: August 6, 1996

TO: Division Staff

TROUGH: E. H. Bartsch, P.E., Director
Office of Water Programs

Allen R. Hammer, P.E., Director
Division of Water Supply Engineering

Robert Taylor, P.E., Technical Services Administrator
Division of Water Supply Engineering

FROM: Monte Waugh, Technical Services Assistant
Division of Water Supply Engineering

SUBJECT: Water - Procedure - Enforce Acts, Orders, Court, Log Rev - Phase II/V Notice of Violation and Informational Notices

The enclosed format for Notice of Violations for Chemical and Physical Examination replaces the following formats in Working Memo 453;

- Appendix X; 21H, Draft Notice - to customer - PMCL - general
- Appendix X; 21I, Draft Notice - to news media - PMCL - general
- Appendix X; 21J, Notice of Violation to owner.

All chemical and physical violations, PMCL and monitoring, occurring after December 31, 1995, shall receive a notice of violation from the Commissioner. All chemical and physical violations, PMCL and monitoring, occurring during January 1, 1993 through December 31, 1995, should have received an informational notice from the Commissioner. For any such violators that have not yet been notified, use the enclosed Informational Notice format. These new formats apply to all waterworks that have not received a Notice of Violation or Informational Notice after the originating date of this memo.

INFORMATIONAL NOTICE OF FEDERAL VIOLATION

SUBJECT: _____

Water - _____

(DATE)

Dear _____:

This Informational Notice is to advise you that the waterworks at _____ may be in violation of federal regulations, known as the Phase II, IIB and V Rules, of the National Primary Drinking Water Regulations adopted by the U.S. Environmental Protection Agency (the EPA). These regulations stipulate monitoring requirements for inorganic chemicals, organic chemicals and unregulated chemicals. As the owner/representative of the referenced waterworks, you are required to comply with these regulations. Federal law requires the Commonwealth of Virginia to adopt state drinking water regulations that are at least as stringent as federal drinking water regulations. Virginia adopted state regulations mirroring the Phase II, IIB and V Rules November 15, 1995. However, at this time only EPA has the authority to enforce the federal regulations. The Virginia Department of Health is providing waterworks owners in our State with Informational Notices as a courtesy to inform them of the status of their waterworks in regard to these regulations.

The Phase II and IIB Rules became effective July 30, 1992. The Phase V Rule became effective August 17, 1992. The Rules instituted a monitoring schedule with an initial monitoring period

starting January 1, 1993 and ending December 31, 1995. Subsequent monitoring periods also run three years.

[CHOOSE APPROPRIATE VIOLATION OPTION]

[NITRATE]

- OPTION 1 The Phase II Rule requires waterworks using surface water, in whole or in part, to monitor quarterly for nitrate concentrations beginning January 1, 1993 at each waterworks entry point. Our records indicate that there was a failure to collect the required sample(s) in the (ex.-2nd Quarter, 1993) calendar quarter(s) for this (waterworks)(waterworks entry point at _____).
- OPTION 2 The Phase II Rule requires waterworks using groundwater to monitor annually for nitrate concentrations beginning January 1, 1993 at each waterworks entry point. Our records indicate that there was a failure to collect the required sample in 19____ for this (waterworks)(waterworks entry point at _____).
- OPTION 3 Our records indicate this waterworks was allowed by the Phase II Rule to reduce the initial quarterly nitrate monitoring frequency to annually. This annual sample was to be collected in the calendar quarter that had the highest nitrate concentration during the initial quarterly monitoring schedule. Our records indicate there was a failure to collect the required nitrate sample in (19____)(in the proper calendar quarter in 19____) for this (waterworks) (waterworks at entry point _____).

[VOCs]

- OPTION 1 The Phase II and V Rules require waterworks, which completed the initial Volatile Organic Chemical monitoring (Phase I Rule) by December 31, 1992 and did not detect any Volatile Organic Chemicals, to monitor annually for Volatile Organic Chemicals listed in the Phase I, II, and V Rules at each entry point or other designated point(s) which are representative of each source after treatment starting January 1, 1993. Our records indicate that there was a failure to collect the required sample for this (waterworks) (waterworks entry point at _____) in 19____.
- OPTION 2 The Phase II and V Rules require waterworks, which did not complete the initial Volatile Organic Chemical monitoring (Phase I Rule) by December 31, 1992, to monitor for Volatile Organic Chemicals listed in the Phase I, II and V Rules in four consecutive calendar quarters each three year compliance period beginning January 1, 1993. Our records indicate that there was a failure to collect the required samples

for this (waterworks) (waterworks entry point at _____) in the
 _____ calendar quarter(s) 199____.

[SOCs]

The Phase II and V Rules require waterworks to monitor for Synthetic Organic Chemicals(SOCs) for four consecutive quarters at each entry point between January 1, 1993 and December 31, 1995 unless a monitoring waiver was granted by this Department. A waiver application for laboratory analysis method(s) _____ for this waterworks was denied in a letter dated _____. Our records indicate there was a failure to collect the required samples for the SOC contaminants covered by laboratory analysis method(s) _____ from this (waterworks) (waterworks entry point at _____) because samples were not collected for four consecutive quarters during the above stated time period.

Federal law requires owners of waterworks to give public notice and to report violations of its regulations to EPA. EPA has authorized violation reports to be made to the Virginia Department of Health instead of the EPA. Our records do not indicate that the public has been notified of any failure to comply with the Phase II, IIB or V Rules at this waterworks. Attached to this letter is an example public notice and instructions for giving public notice.

Any violation of these federal regulations is a violation of Federal laws and may result in an enforcement action being taken by EPA, including Federal civil penalties of up to \$25,000 per day.

If you have any questions about the Phase II, IIB and V Rules, please do not hesitate to call me at _____.

Sincerely,

District Engineer

_____/_____

Enclosure: Example Notice to Customers

cc: County Health Department-ATTN: Dr. _____

_____ County Administrator

VDH - DWSE - Richmond

Federal Regulations Public Notification Requirements

Public notifications must be handled in the following manner:

- By publication in a daily newspaper of general circulation in the area served by the system within three months of the violation. After this initial notice, notice must be given at least once every three months by mail, or by hand delivery, for as long as the violation exists.
- If no daily newspaper serves the area, by publication in a weekly newspaper of general circulation in the area served by the system within three months of the violation. After this initial notice, notice must be given at least once every three months by mail, or by hand delivery, for as long as the violation exists.
- If no such daily or weekly newspaper serves the area, notice must be given by hand delivery or by posting in conspicuous places within three months. Notice by hand delivery must be repeated at least every three months for as long as the violation exists. Notice by posting must be continuous for as long as the violation exists.

EXAMPLE NOTICE

(NAME) PUBLIC WATER SYSTEM

We have been advised by State Health Officials that we may be in violation of the National Drinking Water Regulations. We failed to perform required monitoring and furnish health officials with analysis results for (Volatile Organic Chemicals) (Nitrate) (Synthetic Organic Chemical) concentrations for (a) water sample(s) required to be collected in (199__) (the _____ calendar quarter(s) of 199__) (between January 1, 1993 and December 31, 1995).

We are attempting to prevent further monitoring violations by collecting the required sample(s).

Future violations, however minor, will be reported to you as required by the federal regulations aimed at increasing your awareness of the conditions that exist in public water systems.

[waterworks owner]

[waterworks name]

[telephone number]

NOTICE OF VIOLATION

CHEMICAL AND PHYSICAL EXAMINATION

SUBJECT: _____

Water - _____

(DATE)

Dear Mr.: _____

This letter is in regard to a failure to monitor in accordance with 12 VAC 5-590-370 of the Commonwealth of Virginia/State Board of Health *Waterworks Regulations* for the _____waterworks. Following are: (1) a summary of the failure to monitor, (2) actions which you are required to take in accordance with 12 VAC 5-590-330, 12 VAC 5-590-530 and 12 VAC 5-590-540 of the *Waterworks Regulations*, (3) an example of the Notice to Consumers, and (4) a completion report which must be returned to this Office.

The following references in Virginia Law are for your convenience if you decide that you require the assistance of an Attorney: Title 32.1, Chapter 6, Article 2, Code of Virginia as amended, Sections 32.1-169, 32.1-170 and 32.1-176.

The _____ waterworks is in violation of 12 VAC 5-590-370 of the *Waterworks Regulations*. **[Insert appropriate option as listed below]**

[NITRATE]

- OPTION 1 The *Waterworks Regulations* require waterworks using surface water, in whole or in part, to monitor quarterly for nitrate concentrations beginning January 1, 1993 at each waterworks entry point. Our records indicate that there was a failure to collect the required sample(s) in the _____ calendar quarter(s) for this (waterworks)(waterworks entry point at _____).
- OPTION 2 The *Waterworks Regulations* require waterworks using groundwater to monitor annually for nitrate concentrations beginning January 1, 1993 at each waterworks entry point. Our records indicate that there was a failure to collect the required sample in 19____ for this (waterworks)(waterworks entry point at _____).
- OPTION 3 Our records indicate this waterworks was allowed by the *Waterworks Regulations* to reduce the initial quarterly nitrate monitoring frequency to annually. This annual sample was to be collected in the calendar quarter that had the highest nitrate concentration during the initial quarterly monitoring schedule. Our records indicate there was a failure to collect the required nitrate sample in (19____)(in the proper calendar quarter in 19____) for this (waterworks) (waterworks at entry point _____).

[VOCs]

- OPTION 1 The *Waterworks Regulations* require waterworks, which completed the initial Volatile Organic Chemical monitoring by December 31, 1992 and did not detect any Volatile Organic Chemicals, to monitor annually for Volatile Organic Chemicals listed in the *Waterworks Regulations* at each entry point or other designated point(s) which are representative of each source after treatment starting January 1, 1993. Our records indicate that there was a failure to collect the required sample for this (waterworks) (waterworks entry point at _____) in 19____.
- OPTION 2 The *Waterworks Regulations* require waterworks, which did not complete the initial Volatile Organic Chemical monitoring by December 31, 1992, to monitor for Volatile Organic Chemicals listed in the *Waterworks Regulations* in four consecutive calendar quarters each compliance period. Our records indicate that there was a failure to collect the required samples for this (waterworks) (waterworks entry point at _____) because samples were not collected for four consecutive calendar quarters between January 1, 199____ and December 31, 199____. **[NOTE TO STAFF -These dates are for three year compliance period, NOT one year.]**

[SOCs]

- OPTION 1 The *Waterworks Regulations* require waterworks to monitor for Synthetic Organic Chemicals (SOCs) for four consecutive calendar quarters at each entry point each compliance period unless a monitoring waiver was granted by the Commissioner. A waiver application for laboratory analysis method(s) _____ for this waterworks was denied in a letter dated _____. Our records indicate there was a failure to collect the required samples for the SOC contaminants covered by laboratory analysis method(s) _____ from this (waterworks) (waterworks entry point at _____) because samples were not collected for four consecutive calendar quarters between January 1, 199____ and December 31, 199____. **[NOTE TO STAFF-These dates are for three year compliance period, NOT one year.]**
- OPTION 2 Our records indicate this waterworks was allowed by the *Waterworks Regulations* to reduce the initial Synthetic Organic Chemical (SOC) monitoring frequency to (one) (two) samples per entry point per three year compliance period. (The two samples were to be collected within one year of each other.) Our records indicate there was a failure to collect the required samples for the SOC contaminants covered by laboratory analysis method(s) _____ in the compliance period between January 1, 199____ and December 31, 199____ **[NOTE TO STAFF-These dates are for three year compliance period, NOT one year.]** (for this waterworks) (at waterworks entry point(s) _____) _____

Within thirty (30) days of receipt of this letter you must collect a water sample from your (waterworks) (waterworks entry point at _____) for _____ analysis, and submit it to a laboratory certified to perform this drinking water analysis by the Division of Consolidated Services. The state laboratory is available to run the sample analysis. Please have a private laboratory notify our Office upon receipt of the sample and send a copy of the analysis results directly to our Office. If you need help obtaining laboratory service, please contact this Office and we will be glad to assist you.

The *Waterworks Regulations*, 12 VAC 5-590-540, requires a waterworks owner to give public notice whenever there is a failure to do the required monitoring. The public notifications must be handled in the following manner:

1. By publication in a daily newspaper of general circulation within three months upon receipt of this letter.

2. By mail or direct delivery every three months for as long as the failure to monitor continues.

3. By giving a copy of the most recent notice for any outstanding failure to meet State regulations to all new billing units or new hookups prior to or at the time service begins.

Use the attached Public Notification Report form to notify us when and in what manner you distributed the public notice. Submit with this form a copy of the notice that was actually distributed.

Attached is a draft of an appropriate notice for your consumers. You may use this draft notice as is, modify it to better meet your situation or develop your own notice, so long as the facts are accurate. If changes to the notice are made or you develop your own notice, final approval must be obtained from this Office prior to distribution of the notice.

Please contact this Office if you have any questions.

Sincerely,

District Engineer

Enclosure

_____/_____

cc: _____ County Health Department - ATTN: Dr. _____

County Administrator
VDH - Richmond

NOTICE TO THE CONSUMERS

of the

Public Water Supply

We have been advised by State Health Officials of a failure to perform required monitoring in accordance with the Commonwealth of Virginia/State Board of Health *Waterworks Regulations*. We failed to furnish health officials with analysis results for (Volatile Organic Chemical) (Nitrate) (Synthetic Organic Chemical)

[other]_____

_____ concentrations from (a) water sample(s) that (was) (were) required to be collected in (199____)(the _____ calendar quarter(s) of 199____).

We are attempting to prevent further monitoring violations by collecting the required sample(s).

Future violations, however minor, will be reported to you as required by state and federal regulations aimed at increasing your awareness of the conditions that exist in public water systems.

[waterworks owner/representative]

[waterworks name]

[telephone number]

Revision- 06/03/96

(IOC, SOC, VOC PMCL VIOLATIONS AFTER 31 DECEMBER 1995)

(Date)

NOTICE OF VIOLATION

EXCEEDENCE OF THE MAXIMUM CONTAMINANT LEVEL
FOR

SUBJECT:
Water -

Dear _____:

This letter is in regard to an exceedance of a Primary Maximum Contaminant Level (PMCL) for _____ as listed in 12 VAC 5-590-410 of the Commonwealth of Virginia/State Board of Health *Waterworks Regulations* for the _____ waterworks. Following are: (1) a summary of the violation and the monitoring results used in evaluating compliance with the standards, (2) actions which are required in accordance with 12 VAC 5-590-540 of the *Waterworks Regulations*, (3) an example of the Notice to Consumers, and (4) a completion report which must be returned to this Office.

Note to staff:

The VAC regulations referred to in this letter can be found under Sections 2.8 and 2.21 (VR 355-18-004.8) of the June 23, 1993 *Waterworks Regulations*, revised November 15, 1995.

The following references in Virginia Law are for your convenience if you decide that you require the assistance of an attorney. Title 32.1, Chapter 6, Article 2, Code of Virginia as amended, Section 32.1-169, 32.1-170 and 32.1-176.

This notice is to advise you that the _____ waterworks is in violation of 12 VAC 5-590-410 of the *Waterworks Regulations*. The PMCL for _____ was exceeded for the _____ [**quarter / year / period**] of _____ at _____ entry point(s). The PMCL for _____ is _____ mg/L.

(Choose one of the following*)

- * The average [**nitrate / nitrite / nitrate and nitrite**] concentration(s) [**was /were**] _____ mg/L, respectively, for scheduled and confirmation samples collected on _____, respectively. Exceeding the nitrate standard may pose an acute risk to human health.
- * The (**running**) annual average _____ (**contaminant name**) concentration was mg/L [**for scheduled and confirmation samples collected on _____, respectively./ or**]. **The results of these analyses are listed in the following table:]**

Note to staff:

Use the following table for quarterly samples. Please note that an annual average sample analysis result would usually be from a single sample and it's confirmation sample; while a running annual average would usually be from quarterly samples.

_____ (**Contaminant Name**)
All Analytical Results in mg/L

	A. Scheduled Sample		B. Confirmation Sample		
Quarter	Date	Results	Date	Results	Average (A & B) Results
1					
2					
3					
4					
(Running) Annual Average					

Corrective action should be taken to provide consumers with potable water meeting all applicable water quality standards. Possible options for achieving water quality standards include a new source or treatment.

A draft notice has been attached for your use which contains federally mandated language. This notice must be given by [**choose the following as appropriate**] .

- **By publication in a daily newspaper of general circulation in the area served by the system within 14 days of the violation, or within 72 hours of a nitrate violation, and by mail or hand-delivery no later than 45 days of the violation.**
- **If no daily newspaper serves the area, by publication in a weekly newspaper of general circulation in the area served by the system within 14 days of the violation.**
- **If no such daily or weekly newspaper serves the area, notice must be given by hand-delivery or by posting in conspicuous places within 14 days of the violation or within 72 hours for a nitrate violation.**
- **For violations of the nitrate MCL, the contaminant may pose an acute risk to human health, therefore, the notice must also be furnished to the radio and television stations serving the area as soon as possible, but in no case later than 72 hours of the violation.**
- **For nontransient noncommunity systems, the notice may be given by hand-delivery or by continuous posting in conspicuous places served by the system within 14 days of a violation and within 72 hours of a nitrate violation.**
- **Notices given by hand-delivery must also be repeated at least every 3 months for as long as the violation exists and notices by posting must be continuous for as long as the violation exists.**

Changes to the enclosed draft notice may be made; however, any such changes must be approved by the Office of Water Programs prior to distribution.

12 VAC 5-590-540 of the *Waterworks Regulations* requires that within 10 days of completion of each public notice, the waterworks owner shall provide a representative copy of each type of notice distributed, published, posted and/or made available to consumers and/or to the media. Please return the attached public notification completion report and indicate the various notifications provided. Failure to provide public notice and report to the Virginia Department of Health as prescribed herein is a violation of Federal laws and may result in an enforcement action being taken by EPA, including Federal civil penalties of up to \$25,000 per day.

If you have any questions or comments regarding this matter, please contact me.

Sincerely,

District Engineer

Enclosures (2)

cc: VDH-Central

_____ County Health Dept; Attn: _____ MD, Director
_____ County Administrator

NOTICE OF HIGH IN DRINKING WATER

(Waterworks Name)

PWSID No.

We have been advised by State Health Officials that the water supplied by this waterworks during [**quarter / year/ period**] exceeded the _____ mg/L Primary Maximum Contaminant Level for contained in the Commonwealth of Virginia/State Board of Health *Waterworks Regulations*. Compliance with this standard is based on the average results of _____ [**a routine annual sample and confirmation sample / four consecutive quarterly samples**]. The results indicate that samples collected had an average _____ concentration of _____ mg/L.

[Insert federally mandated language for the specific contaminant]

The _____ State _____ Health _____ Officials _____ recommend _____ .

Further violations of the drinking water standards will be reported to you as required by Federal and State regulations aimed at increasing the awareness by consumers of conditions that exist in public waterworks.

Signature of Owner Representative

Waterworks Name

Telephone Number

Date

Revision - 06/03/96

(IOC/SOC/VOC; MCL VIOLATIONS BETWEEN 1 JAN 1993 - 31 DEC 1995)

(Date)

INFORMATIONAL NOTICE OF FEDERAL VIOLATION

SUBJECT:

Water -

Dear _____:

This Informational Notice is to advise you that the _____ waterworks may be in violation of Federal Regulations known as the Phase II, IIB and V Rules of the National Primary Drinking Water Regulations adopted by the U.S. Environmental Protection Agency (the EPA). These regulations stipulate Maximum Contaminant Levels (MCLs) for inorganic and organic chemicals. As the owner/representative of the referenced waterworks, you are required to comply with these regulations. Federal law requires the Commonwealth of Virginia adopt State drinking water regulations that are at least as stringent as Federal drinking water regulations. Virginia adopted State regulations mirroring the Phase II, IIB and V Rules November 15, 1995. However, at this time, only the EPA has the authority to enforce the Federal regulations. The Virginia Department of Health is providing waterworks owners in our state with Informational Notices as a courtesy to inform them of the status of their waterworks in regard to these regulations.

The Phase II and IIB Rules became effective July 30, 1992. The Phase V Rule became effective August 17, 1992. These Rules instituted a monitoring schedule with an initial monitoring period starting January 1, 1993 and ending December 31, 1995.

A violation may have occurred because the MCL for _____ was exceeded for the _____ [**quarter / year / period**] of _____ at _____ entry point(s). The MCL for _____ is _____ mg/L.

(Choose one of the following*)

- * The average [**nitrate / nitrite / nitrate and nitrite**] concentration(s) [**was /were**] _____ mg/L, respectively, for scheduled and confirmation samples collected on _____, respectively.
- * The **(running)** annual average _____ **(contaminant name)** concentration was mg/L [**for scheduled and confirmation samples collected on _____, respectively./ or** **.The results of these analyses are listed in the following table:**]

Note to staff:

Use the following table for quarterly samples. Please note that an annual average sample analyses result would usually be from a single sample and a confirmation sample; a running annual average would usually be from quarterly samples.

_____ **(Contaminant Name)**
All Analytical Results in mg/L

	A. Scheduled Sample		B. Confirmation Sample		
Quarter	Date	Results	Date	Results	Average (A & B) Results
1					
2					
3					
4					
(Running) Annual Average					

Corrective action should be taken at the subject waterworks to provide consumers with potable water meeting all applicable water quality standards. Possible options for achieving water quality standards include a new source or treatment.

Federal law requires owners of waterworks to give public notice and to report violations of its regulations to EPA. EPA has authorized violation reports to be made to the Virginia Department of Health instead of the EPA. Our records do not indicate that the public has been notified of any failure to comply with the Phase II, IIB or V Rules at this waterworks. Attached to this letter is an example public notice and instructions for giving public notice.

Any violation of these federal regulations is a violation of Federal law and may result in an enforcement action being taken by EPA, including Federal civil penalties of up to \$25,000 per day.

If you have any questions about the Phase II, IIB or V Rules, please do not hesitate to contact me at .

Sincerely,

District Engineer

Enclosures (2) Example Notice to Customers

cc: VDH-DWSE

_____ County Health Dept.; Attn.: _____, MD, Director
_____ County Administrator

NOTICE OF HIGH IN DRINKING WATER

(Waterworks Name)

PWSID No.

We have been advised by State Health Officials that the water supplied by this waterworks during [**quarter / year / period**] exceeded the _____ mg/L Maximum Contaminant Level for set by the National Primary Drinking Water Regulations. Compliance with the standard is based on the average results of _____ [**a routine annual sample and confirmation sample / four consecutive quarterly samples**] The results indicate that samples collected had an average concentration of _____ mg/L.

[Insert federally mandated language for the specific contaminant]

The _____ State _____ Health _____ Officials _____ recommend
.

Further violations of the drinking water standards will be reported to you as required by Federal and State regulations aimed at increasing the awareness by consumers of conditions that exist in public waterworks.

Signature of Owner Representative

Waterworks Name

Telephone Number

Date

Federal Regulations Public Notification Requirements

Public notice must be handled in the following manner:

- By publication in a daily newspaper of general circulation in the area served by the system within 14 days of the violation, or within 72 hours of a nitrate violation, and by mail or hand-delivery no later than 45 days of the violation.
- If no daily newspaper serves the area, by publication in a weekly newspaper of general circulation in the area served by the system within 14 days of the violation.
- If no such daily or weekly newspaper serves the area, notice must be given by hand-delivery or by posting in conspicuous places within 14 days of the violation or within 72 hours for a nitrate violation.
- For violations of the nitrate MCL, the contaminant may pose an acute risk to human health, therefore, the notice must also be furnished to the radio and television stations serving the area as soon as possible, but in no case later than 72 hours of the violation.
- For nontransient noncommunity systems, the notice may be given by hand-delivery or by continuous posting in conspicuous places served by the system within 14 days of a violation and within 72 hours of a nitrate violation.
- Notices given by hand-delivery must also be repeated at least every 3 months for as long as the violation exists and notices by posting must be continuous for as long as the violation exists.